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| Notice of Allowability | Application No. | Applicant(s) |
| | 09/422,134 | CHEN ET AL. |
| | Examiner Jakieda R Jackson | Art Unit 2655 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to September 14, 2004.
2. The allowed claim(s) is/are 1-14.
3. The drawings filed on _____ are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date June 10, 2004.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of

Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),

Paper No./Mail Date _____
4. Examiner's Comment Regarding Requirement for Deposit

of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),

Paper No./Mail Date _____
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____

DETAILED ACTION***Election/Restrictions***

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

This application is in condition for allowance except for the presence of claims 15-20 to Group II non-elected without traverse. Accordingly, claims 15-20 have been cancelled.

Allowable Subject Matter

2. **Claims 1-14** are allowed.

The following is a statement of reasons for allowance:

As for independent **claim 1**, it is allowed because it recites muting a current encoded frame, whether or not it has an error, if the error sum over the length of dynamic template, encompassing a plurality of previous encoded frames, exceeds a threshold, said dynamic template length being computed in a predetermined way from on an error rate of the encoded bitstream. McMullan Jr. et al. and Wong et al. fail to teach nor reasonably suggest this in combination.

While McMullan Jr. in effect have a dynamic template for muting the current frame, its size is determined by the existence of an error in the current frame that makes an accumulated error count exceed a threshold, the increments in said

frame error count being based on error importance, so that the resultant template length is not precomputed based on an error count in a previous such dynamic template. Wong et al. teach bad frame indications for muting a speech frame based on the sum of confidence measures for each bit of a frame.

Dependent **claims 2-7** are allowed because they further limit their parent claims.

As for independent **claim 8**, it is allowed because it recites detecting if a current encoded audio frame contains an error. If an error is detected, repeating a previous decoded audio frame in lieu of current encoded audio frame, repeating obtaining decoded data of previous audio frame, generating a repeated audio frame by replicating decoded data of previous audio frame for use in lieu of current encoded audio frame, modifying repeated audio frame by adding delay information of a last block of said previous audio frame to generate new decoded data and sending repeated audio frame to an audio output buffer for playout.

Dierke and Kitabatake fail to teach nor reasonably suggest modifying said repeated audio frame by adding delay information of a last block of said previous audio frame with pulse code modulated (PCM) data of a first block of said repeated audio frame to generate new decoded data for said first block of said repeated audio frame. While Dierke teaches an audio decoder employing error concealment technique that conceals audio errors by replacing a bad audio frame with a previous good audio frame, repeating the last previous audio frame, the repeated audio frame is not modified by adding the delay information of a last

block of previous audio frame with PCM data of a first block. Kitabatake does not cure the deficiency.

Dependent **claims 9-14** are allowed because they further limit their parent claims.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jakieda R Jackson whose telephone number is 703.305.5593. The examiner can normally be reached on Monday through Friday from 7:30 a.m. to 5:00p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on 703. 305.4827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JRJ
January 19, 2005



DAVID L. OMETZ
PRIMARY EXAMINER